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3 **UNITED STATES DISTRICT COURT**
4 **NORTHERN DISTRICT OF CALIFORNIA**
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8 JAMES KARIM MUHAMMAD,

Case No.: C-10-01449-YGR

9 Plaintiff,

**NOTICE OF QUESTIONS FOR
HEARING ON DEFENDANT'S MOTION
FOR SUMMARY JUDGMENT**

10 vs.
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12 PEOPLE OF CALIFORNIA; JEFFREY
13 STARK, as an individual and as Assistant
14 District Attorney of Alameda County; BOB
15 CONNER, as an individual and as District
16 Attorney Inspector; CYNTHIA CONEJO, as
17 an individual and as Assistant Registrar of
18 Voters Alameda County; and DOES 1-10,

Defendants.
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TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD, PLEASE TAKE NOTICE OF THE
FOLLOWING QUESTIONS FOR THE HEARING SCHEDULED ON TUESDAY, FEBRUARY 21,
2012 AT 2:00 P.M.

The Court has reviewed the parties' papers and, thus, does not wish to hear the parties re-
argue matters addressed in those pleadings. If the parties intend to rely on authorities not cited in
their briefs, they are ORDERED to notify the Court and opposing counsel or the opposing party, if
proceeding *pro se*, of these authorities reasonably in advance of the hearing and to make copies
available at the hearing. If the parties submit such additional authorities, they are ORDERED to
submit the citations to the authorities only, with reference to pin cites and without argument or
additional briefing. Cf. Civil L. R. 7-3(d). The parties will be given the opportunity at oral argument

to explain their reliance on such authority. The Court suggests that associates or of counsel attorneys who are working on this case be permitted to address some or all of the Court's questions contained herein.

In the Tenth Count, Plaintiff James Karim Muhammad alleges that Defendant Bob Conner failed to "knock and announce" his presence prior to entering Plaintiff's residence in violation of California Penal Code section 844. Conner argues that this claim is barred because Mr. Muhammad did not comply with the California Tort Claims Act, which requires that Mr. Muhammad first present the claim for damages to the governmental entity, here, the Office of the Clerk to the Board of Supervisors for Alameda County. Cal. Gov. Code §§ 911.2, 950.2. With respect to this Count:

- 1) Mr. Muhammad does not allege in his complaint that he complied with the claims presentation statutes, California Government Code sections 911.2 and 950.2, and Conner has submitted the declaration of an employee who searched County records and determined that Plaintiff never presented any claim to the County. Does Mr. Muhammad dispute that he did not present a claim to the County prior to filing this lawsuit, and if so, what proof does Mr. Muhammad have that he presented a claim to the County?
- 2) Can a state law immunity statute prevent Mr. Muhammad from bringing a federal civil rights cause of action because, even though he could have pled these facts as a violation of the Fourth Amendment prohibition against unreasonable searches, Mr. Muhammad alleged a violation of state law? If so, should the Court liberally construe Mr. Muhammad's complaint, filed *pro se*, so as to include a federal constitutional claim? What legal authority supports the party's position?

IT IS SO ORDERED.

Dated: February 15, 2012


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT JUDGE